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South Pacific Regional Environment Programme



**Plenipotentiary Meeting  
on the Agreement  
Establishing SPREP**



Held on  
**14 -16 June 1993**  
in **Apia, Western Samoa**

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# Record of Meeting

## Item 1 : Official Opening

1. A Plenipotentiary Meeting on the SPREP Treaty was held at Apia, Western Samoa, from 14 to 16 June 1993. Representatives of the following SPREP member countries and territories attended: American Samoa, Australia, Cook Islands, Fiji, France, Guam, Kiribati, Republic of the Marshall Islands, Nauru, New Caledonia, New Zealand, Niue, Northern Mariana Islands, Palau, Papua New Guinea, Solomon Islands, Tokelau, Tonga, Tuvalu, United States of America, Vanuatu and Western Samoa. Apologies were received from Federated States of Micronesia, Wallis and Futuna and United Kingdom on behalf of Pitcairn. A list of participants is at Annex 1.

2. The meeting was opened by the Honourable Tofilau Eti Alesana, the Prime Minister of Western Samoa, who welcomed delegates and commented on the high level of representation. In his address, the Hon. Prime Minister referred to decisions of the Fourth SPREP Intergovernmental Meeting (IGM) to establish SPREP as a separate, independent, regional organisation by Treaty and the general agreement of the Fifth IGM that a solution should be found to allow SPREP to continue the full participation of all its current members. As for the difficulties being experienced by France and the United States, the region looked to these two foremost world leaders to provide leadership and direction and in so doing to show innovation, enlightenment and flexibility. The principle of decision making by consensus accorded with practice in the region and might be a way forward. Conclusion of the Treaty would formalise SPREP's new beginning and enable it to take its place as a significant intergovernmental organisation assisting the development of the Pacific's small island states as they entered the 21st century. Conclusion of the Treaty would also allow the Government of Western Samoa to formalise the transfer of land at Vailima for the new SPREP headquarters as well as SPREP's privileges and immunities in Western Samoa. The text of the Prime Minister's address is at Annex 2.

3. Responding, the Premier of Niue, the Honourable Frank Lui, thanked the Prime Minister for his remarks and for the gesture and hospitality of Western Samoa in convening the meeting. The Premier hoped the Meeting would provide a foundation for clear directions on common issues unique to the region. SPREP needed status and recognition both regionally and internationally. The Premier also thanked Australia for its assistance towards funding the Meeting's travel costs. The text of the Premier's statement is at Annex 3.

## Item 2 : Appointment of Chairperson

4. The meeting unanimously supported the nomination of the Minister of Agriculture of Western Samoa, Honourable Misa Telefoni, as Chairperson.

## Item 3 : Adoption of Agenda and Working Procedures

5. The Provisional Agenda was adopted subject to Item 6 being amended to read: "Signature of Final Act and Treaty." The Agenda, as amended and adopted, is at Annex 4.

6. Nauru stated that it was necessary to establish a drafting committee and suggested that the committee have the same membership as the Legal Sub-committee which was originally established during the Fourth IGM in 1991 and which met again during the Fifth IGM in 1992. This comprised Australia, Federated States of Micronesia, France, New Zealand, Papua New Guinea and Solomon Islands, with Western Samoa in the Chair. The Sub-committee would be open to any other delegations wishing to participate.

7. It was also agreed that the Drafting Committee would be responsible for drafting the Final Act and the Report of the meeting.

8. The Chairperson was appointed to act as spokesperson to the Press, with assistance from the Director of SPREP. Any delegate could request to see press releases before these were issued.

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#### **Item 4 : Deliberations on the Draft Agreement Establishing the South Pacific Regional Environment Programme as an Intergovernmental Organisation**

9. The Chairperson outlined two procedural options facing the Meeting: to go through the draft Agreement clause-by-clause or to adopt the draft Agreement except for the areas of contention in square brackets. His preference would be the first option.

10. **Cook Islands** felt that further consideration of the draft should be preceded by general discussion. This was supported by **Kiribati, Nauru, Niue, Papua New Guinea, and Tonga**, all of which felt that general discussion should be followed by consideration of the areas of contention.

11. The Chair noted that differences had arisen between France and the United States last year and suggested that general statements from delegates be followed by consideration of the procedures to be adopted.

12. **Cook Islands**, in its general statement, focused on the outstanding issues. Cook Islands supported the SPREP Treaty and participation of and voting by territories. These procedures, adopted by the 23rd South Pacific Conference in Saipan in relation to the SPC, had been applied effectively to SPREP since its beginning. Cook Islands was against sacrificing the basic principle of participation by all which had been practiced by SPREP for 10 years. However, Cook Islands accepted that only certain entities had the ability to accept the international responsibility of a treaty. Cook Islands was ready to sign the Treaty subject to satisfactory resolution of outstanding issues.

13. **Fiji** fully supported the Treaty and was also ready to sign.

14. **Papua New Guinea** noted that it had first sponsored the establishment of SPREP during the South Pacific Forum in Nauru in 1976. Papua New Guinea was fully behind establishment of SPREP as an autonomous body and hoped the issue of the territories could be resolved by this Meeting. He assured the Meeting that Papua New Guinea would sign and ratify the Treaty by the time of the Sixth IGM in Guam in September 1993.

15. **Kiribati** remarked that sustainable development was only possible by regional cooperation through SPREP. The Treaty had the approval of the Government of Kiribati which supported the membership formula now used in the South Pacific Conference and was ready to sign. Kiribati also agreed to inclusion of a clause on privileges and immunities similar to the Agreement Establishing the Forum Secretariat, with the proviso that it would need to consider the taxation situation of Kiribati nationals working in Kiribati for SPREP.

16. **New Zealand** was grateful for the efforts of France and the United States to date, but shared the concern of the others that the unresolved Treaty issue was overwhelming SPREP and diverting attention from its work. New Zealand looked to France and the United States to show flexibility by allowing the Treaty to be signed by the end of this meeting.

17. **Tuvalu** recalled that the Fifth IGM Report had set out the unresolved issues, to which was added the appointment of the Deputy Director of SPREP. Tuvalu supported the Fifth IGM's call for urgency in finalising the Treaty which was critical to the successful implementation of SPREP's mandate.

18. **Tonga** supported the draft Treaty which would lead SPREP into the 21st century.

19. **Vanuatu** supported SPREP's programmes which had been of great benefit to it. Vanuatu was ready to sign the Treaty as soon as it was formalised.

20. **The Republic of the Marshall Islands**, noting that the central issues were participation and voting rights, supported current practice. Protection of the environment should not be restricted by legal issues and the lack of an agreement was detracting from SPREP's work. Territories should be allowed to work together with other members and only the legal framework was lacking. There should not be undue emphasis on strict counting of votes.

21. **New Caledonia** noted that SPREP was still part of the South Pacific Commission and that for the past ten years the SPC system of participation had caused no objections. International law recognised regional law and this should be the case in the Pacific.

22. **Australia** supported finalisation of the Treaty at this Meeting and full participation of territories consistent with current regional practice. It was important that the Treaty issue not be allowed to drag on and effect SPREP's substantive work for sustainable development. Australia hoped that France and the United States could resolve their differences in a

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manner which would not detract from regional practice. Australia had come with a flexible approach prepared to assist in the search for a solution. Australia supported the principle of the Director appointing his Deputy and was now studying the Secretariat's further proposals concerning privileges and immunities. Australia hoped to sign the Final Act and had authority to sign the Treaty *ad referendum*.

23. The Chairman thanked Australia for its generosity in providing airfares and per diems for participants to the Meeting.

24. American Samoa appreciated its political relationship with the United States, although, being Samoan, it aspired to be part of the region.

25. Nauru was ready to sign both the Final Act and the Treaty. This would formalise the status of an organisation which had been in existence since 1982. Nauru supported participation by territories in SPREP's programmes and decisions.

26. The Commonwealth of the Northern Mariana Islands reiterated the call by the Prime Minister of Western Samoa for innovation, enlightenment and flexibility.

27. Referring to Article 8, concerning Privileges and Immunities, the Chair suggested that a small group of members meet to discuss these issues and also the question of the appointment of the Deputy Director.

28. In response to a query from France, the Director clarified that the Article XI attached to the Secretariat's Information Paper 4 referred to the Agreement Establishing the Forum Secretariat.

29. France stated that it was a misapprehension that there were specific French and United States positions. All members agreed that SPREP needed to be established on an internationally recognised basis. The problem was how to achieve this? How would decisions be taken in the SPREP Meeting? The SPC situation, where all members were on an equal footing regardless of political status, was exceptional. There was a need to preserve what had been acquired without detrimental effect to the wishes of members. The problem was that of a legal barrier to the political will. Two points needed to be made; first, that law establishes practice, and second, that all members should make proposals to help break the deadlock. Suggestions were required for wording that would preserve what had been acquired and yet overcome difficulties experienced by any one country.

30. Guam recounted the history leading to its present association with the United States, which it valued highly, and pleaded that progress be made in allowing it to have a regional voice through SPREP.

31. Niue supported the SPREP Treaty which was necessary to achieve SPREP's aims. Niue also supported the wishes of Guam.

32. The Chair reminded the meeting that the Fifth IGM had requested a meeting in February and that this had been postponed to June. He asked France and the United States to report formally to the meeting on whether or not they had been successful in concluding the issues outstanding from the Fifth IGM.

33. The United States advised that no agreement had been reached, but discussions were continuing and hoped they would bear fruit. He reminded the meeting that the Director of SPREP had provided a report on discussions held during his visits to Paris and Washington, D.C.

34. France was concerned to try to maintain the existing situation for territories whereby all members participated in decisions which were made by consensus. But it had been unable to reach agreement with the United States because of constitutional problems. France wanted to go forward, and hoped to find an acceptable form of wording. France understood the concerns of the United States and felt that progress should be possible on what was an editorial problem, rather than one of substance.

35. The Chair recalled that all countries had tried to contribute towards a solution, including Western Samoa whose Ambassadors to the EC and the USA had been involved. The Chair itself had some alternatives to offer, but wished first to allow an opportunity to other delegations to come up with alternative wording, since both France and the United States had reported that they were unable to resolve the issue.

36. At the request of the Chair, France and the United States agreed to circulate written proposals which could be considered by delegates. The proposals subsequently tabled were:

## France

The Parties shall adopt by consensus, at their first ordinary meeting, rules of procedure for their meeting. These rules of procedure shall provide, among other things, that the Parties will ensure the full involvement of all members in the work of the SPREP Meeting, and that the work of the SPREP Meeting shall be conducted on the basis of consensus of all members, taking into account the practices and procedures of the South Pacific Commission.

## United States of America

The work of the SPREP Meeting shall be conducted to the extent possible without resort to decision-making procedures. In the event that decisions are required in the SPREP Meeting, the Parties shall ensure that any such decisions are taken by them by consensus, taking into account the role of the practices and procedures of the South Pacific region.

37. Debate on these proposals revealed continuing lack of consensus.

38. Fiji then tabled the following proposal in the hope that it form an acceptable compromise as a temporary measure; there being feeling that the Treaty should be signed that day:

The Parties shall ensure the full involvement of all members in the work of the SPREP Meeting. The work of the SPREP Meeting shall be conducted on the basis of the consensus of all members, taking into account the practices and procedures of the South Pacific region.

39. It was agreed that the Fiji proposal offered a basis for going forward and the Chairman suggested that a drafting committee comprising Australia, Cook Islands, Fiji, France, Guam, Kiribati, Nauru, New Caledonia, New Zealand, Niue, Tonga, Tuvalu, United States and Western Samoa be responsible for drafting an agreed text of the proposal and also the Final Act. The Director of SPREP clarified that any other interested parties could be involved. The Chair suggested that this committee also look at the issue of privileges and immunities and the procedure for appointment of the Deputy Director.

40. Following discussions of these issues by the Drafting Committee, it recommended that the Director retain his power to appoint the Deputy Director. In addition, it recommended that a further Article 2(g) be included: "promoting integrated legal, planning and management mechanisms." This was approved by the Meeting.

41. With respect to the primary issue [Article 4(3)], the Drafting Committee reported a formulation (PM/Draft. 4/Rev. 1) that represented the views of the majority of members. This read:

### Article 4(3)

(a) The parties shall ensure the full involvement of all members in the work of the SPREP Meeting. The work of the SPREP Meeting shall be conducted on the basis of consensus of all members, taking into account the practices and procedures of the South Pacific region. Where consensus is not possible, decisions shall be taken by a vote of the Parties.

### U.S. Formula

(b) In the event that decisions are required in the SPREP Meeting, the Parties shall ensure that any such decisions are taken by consensus.

### French Formula

(c) When consensus is not possible the members may agree, by consensus, that the decision shall be taken by a vote of the Parties.

42. In light of continuing difficulties, the Chair stated that the meeting must still find a way forward despite some feelings about consensus. The Chair then directed the meeting to the following proposal from Western Samoa:

The Parties shall ensure the full involvement of all members in the work of the SPREP Meeting. The work of the SPREP Meeting shall be conducted on the basis of consensus of all members, taking into account the practices and procedures of the South Pacific region. If a matter arises from the Treaty which requires a decision, it shall be taken by consensus of the Parties.

43. Nauru offered a new proposal for Article 4(3):

"3. The Parties shall ensure the full involvement of all members in the work of the SPREP Meeting. The work of the SPREP Meeting shall be conducted on the basis of consensus of all members, taking into account the practices and procedures of the South Pacific region.

"4. Decisions in the SPREP Meeting shall be taken by consensus of the Members. Any decisions in the SPREP Meeting affecting matters arising from the Treaty shall be taken by consensus by the Parties."



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44. The Chair suggested that the Plenary adjourn to allow the drafting committee time to consider these proposals.

45. The Chairman of the drafting committee subsequently reported to Plenary that, despite full consideration of all the proposals before it, members of the drafting committee had still not been able to reach agreement on the text of Article 4 paragraph 3.

46. Lengthy discussions ensued, culminating in the following text being proposed by Tuvalu:

"(a) The Parties shall ensure the full involvement of all members in the work of the SPREP Meeting. The work of the SPREP meeting shall be conducted on the basis of consensus of all members, taking into account the practices and procedures of the South Pacific region.

"(b) In the event that a decision is required in the SPREP Meeting, that decision shall be taken by a consensus of the Parties. The consensus of the Parties shall ensure the views of all members of the SPREP Meeting have been properly considered and taken into account in reaching that consensus."

47. The Tuvalu proposal was accepted by acclamation.

## Item 5 . Adoption of an Agreed Text

48. Agreement to the Tuvalu proposal removed the remaining area of disagreement. The Plenary then adopted the *Agreement Establishing the South Pacific Regional Environment Programme (SPREP)*. It was agreed that the Agreement would be open for signature for one year, until June 16, 1994. Western Samoa would be the depository.

49. The Chairman thanked all delegates for their untiring efforts to reach consensus on this difficult issue during the past two and half days. He also paid tribute to the Prime Minister and Government of Western Samoa, the Director of SPREP and his staff and all others who had contributed to the successful outcome of the meeting.

50. In response, the Premier of Niue recognised with appreciation the outstanding efforts of the Chairman and delegates also the dedication of the Secretariat.

51. The meeting then adjourned following a prayer by the Director.

## Item 6 : Signature of Final Act and Treaty

52. The *Agreement Establishing the South Pacific Regional Environment Programme (SPREP)* was signed at Apia on 16 June 1993 by duly authorised representatives of the Governments of Fiji, France, Kiribati, Republic of the Marshall Islands, Nauru, Niue, Solomon Islands, Tuvalu, the United States of America, Vanuatu and Western Samoa.

53. The *Agreement Establishing the South Pacific Regional Environment Programme (SPREP)* was initialled at Apia on 16 June 1993 by the duly authorised representative of the Government of Papua New Guinea.

54. The *Final Act of the Meeting of Plenipotentiaries on the Agreement Establishing the South Pacific Regional Environment Programme as an Intergovernmental Organisation* was signed at Apia on 16 June 1993 by duly authorised representatives of the Governments of Australia, Cook Islands, Fiji, France, Kiribati, Republic of the Marshall Islands, Nauru, New Zealand, Niue, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, United States of America, Vanuatu and Western Samoa. The text of the Final Act is at Annex 4.

## Item 7 : Adoption of Record of Meeting

55. Because the Drafting Committee had been unable, in the time available, to draft a report of the Meeting's proceedings, it was decided that the notes drafted by the Secretariat would be circulated to all SPREP members as a basis for consideration and formal adoption of an Agreed Record during the Sixth SPREP IGM in Guam in September 1993. Any SPREP member having comments or suggestions on the contents of the Secretariat's notes would provide these in writing to the Secretariat as quickly as possible.

## Item 8 : Close

56. Following the signing ceremony, the Chairman brought the Meeting to a close with a vote of thanks to all those who had contributed to its success.

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# Annexes

## Annex 1: List of Participants

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## Annex 2: Opening Address by the Prime Minister of Western Samoa, the Hon. Tofilau Eti Alesana.

Rev Ieremia Leau,  
Premier the Hon. Frank Lui and Governor  
Joseph Ada,  
Mr Chairman,  
Cabinet Ministers,  
Excellencies,  
Delegates,  
The Director of SPREP,  
Ladies and Gentlemen.

I welcome you all to this important occasion - the opening of the meeting that will set the course for the Pacific's newest intergovernmental organisation - the South Pacific Regional Environment Programme. I wish to extend a special welcome to those delegates who are visiting Western Samoa for the first time.

I would also like to express my sincere appreciation to all the delegates and to your respective Governments for accepting our invitation to attend this Plenipotentiary meeting which the Fifth SPREP IGM had asked Western Samoa to convene. You have honoured us with your presence.

The very high level of representation and the composition of the delegations to this meeting have clearly demonstrated the importance of the environment to the people of the South Pacific, and constitute also a forceful testimony to the desire, particularly of the island countries, to conclude this Treaty and allow SPREP to concentrate fully on fulfilling its mandate of addressing the environment concerns of the South Pacific.

You will recall that in 1991, at the Fourth Intergovernmental Meeting, representatives of SPREP's twenty-six member governments and administrations unanimously agreed that SPREP should be established as a separate, independent, regional organisation by Treaty. They also accepted an offer by the Government of Western Samoa to host the organisation and SPREP subsequently moved to Apia last year.

1992 was a difficult year for us in the aftermath of Cyclone Vni - one of Samoa's worst natural disasters in living memory. Even in those trying times, however, SPREP and my Government worked closely to establish the organisation in its temporary home at Vaitele on schedule, only eight months after the historic decision to locate the organisation in Western Samoa.

The fact that SPREP quickly filled its Vaitele premises reflects the urgent need for its services by its island members. My Government recognises SPREP's pressing requirements for adequate and permanent accommodation and has set aside a site at Vailima, close to here, on which SPREP will build a new regional headquarters. The successful conclusion of the Treaty this week will allow my Government to complete legal formalities relating to the transfer of the land and other matters such as a formal agreement with SPREP on its privileges and immunities in Western Samoa.

The Fifth SPREP IGM, held in this very room, 9 months ago, accepted a draft - which is before you - of an Agreement Establishing the South Pacific Regional Environment Programme as a basis for discussion and decision at this meeting. In doing so, it noted that full membership and participation by Territories was a particular concern. The key issues identified were, first, the urgent need to agree on a treaty which would enable SPREP to function as a separate legal entity and, second, the strong wish expressed by the Territories that they continue to have full participation in the activities of SPREP, including voting rights. There was general agreement that a solution should be found to allow SPREP to continue the full participation of all its current members.

As you know, the United States has constitutional difficulties concerning decision-making by its territories under a SPREP Treaty. France, on the other hand, maintains that its territories should retain their existing position under the new Treaty.

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France and the United States in a clear demonstration of their desire and willingness to find mutually acceptable solutions, have already met more than once on the issues that separate their respective positions. I understand that they have managed to find common ground on certain matters. However, it would seem that decision making still remains unresolved, although the possibility was discussed - as I again am given to understand - of evolving a principle of decision-making by consensus. This, it appears to me, would in any event accord with actual practice in the region and may be a way forward. Other possible mechanisms likely exist, and I am sure that your meeting shall exhaustively explore them all.

It should be mentioned here that other Pacific island states also have legal and other difficulties with a treaty which gives full participation rights to all the twenty-six SPREP members. However, these island states, including Western Samoa, have exercised flexibility and they have been prepared to accept a treaty which actively involves all the people in the SPREP region, in what they believe to be in the best interests of all the people of the region in environmental matters.

The Pacific is fortunate that the United States and France, two foremost world leaders, are part of the region. These two countries are looked upon to provide leadership and direction which in part means showing innovation, enlightenment and flexibility when the Pacific is seeking to resolve problems which are in the way of developments to promote and improve the welfare of the people of the region. I am unreserved in my conviction that the United States and France fully appreciate the importance of their role in the Pacific and will take a strong lead in seeing that the SPREP Treaty will be successfully concluded in this meeting.

For SPREP, this meeting is the culmination of two years of organising, moving and re-establishing itself in another country, with a new set of circumstances to deal with. The Treaty is the final act needed to complete this complex business of moving such a large, and growing, regional programme and establishing new administrative, financial and, very importantly, legal systems to support it.

My government is committed to supporting SPREP and to finalising the Treaty at this meeting. The Treaty is important to us all in that it formally establishes the legal relationship between SPREP and its member governments, not least the host country. SPREP is mandated to assist its members to achieve environmentally-sound development and the resolution of the legal issues will allow SPREP to concentrate on that task and to address the growing environmental problems in the region. For these most important reasons, I hope that your deliberations this week will conclude satisfactorily and that the Treaty is ready for signature within the next three days, and that any outstanding difficulties can be dealt with in the spirit of cooperation and accommodation, and with imagination and flexibility.

Conclusion of the Treaty will formalise SPREP's new beginning and enables it to take its place as a significant inter-governmental organisation in the Pacific; one that can play a major role in assisting the appropriate development of our small island states as we enter the 21st century.

I wish you a successful meeting.

*I a manuia la outou fonotaga ma ia faatasi le Atua ia outou fai filifiliga.*

*Soifua.*

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### Annex 3: Opening Reply from the Premier of Niue, Hon. Frank Lui.

The honourable Prime Minister, Ministers, Excellencies, Heads of delegation, the Director of the South Pacific Regional Environment Programme, Distinguished representatives, ladies and gentlemen. It is indeed an honour and privilege for me this morning to speak on behalf of all of us who are present at the opening of the meeting on the SPREP Treaty. I would like to thank the Prime Minister (through you) for your kind and warm words of welcome, *talofa lava*.

What you have expressed this morning is very important and crucial to us all. It is important because I believe that the outcome of this meeting will determine the future and the strength of our collective voice in the region and more so to the future of the agency. It will provide the foundation where all of us member countries will have a clear direction in our pursuit to deal with issues and concerns that are common and unique to the region. We have come a long way since the establishment of this programme, under the South Pacific Commission since 1980. The South Pacific Regional Environment Programme is the newest of the regional agencies. The new home is now in your country and we are proud to have supported this move which actually took place since early last year. Your honour, our presence at this meeting is our demonstration of our **continued** support to the establishment of this agency. Further, I hope that what you have expressed and provided for us in your speech this morning will form the basis of our discussion and deliberation during the three days for the meeting. It is my sincere hope that we will find a common understanding so that we will all return home with a happy feeling of success and achievement. There is no doubt that SPREP needs a status and the recognition it deserves in the region and the international scene.

Honourable Minister, may I take this opportunity to acknowledge the assistance provided by the Government of Australia that enabled some of us to come to this meeting.

Again I would like to thank you for your words of welcome and the hospitality that you have extended to us since our arrival. Lastly, you may or may not be aware that your people and culture is well known in the Pacific. We have enjoyed our stay in your country and we look forward to share our time and to participate in the many activities that you have organized for us.

We are happy and proud to be part of the Pacific Family. God Bless us all.

*Faafetai lava, Monuina* and Thank you.



## Annex 4: Final Act of the Meeting of Plenipotentiaries on the Agreement Establishing the South Pacific Regional Environment Programme as an Intergovernmental Organisation.

1. The Meeting of Plenipotentiaries on the Agreement Establishing the South Pacific Regional Environment Programme (SPREP) as an intergovernmental organisation was convened by the Government of Western Samoa pursuant to the decision of the Fifth SPREP Intergovernmental Meeting (IGM) in Apia in September 1992.

2. The Meeting was held at Apia (Papauta Girls School), Western Samoa, from 14 - 16 June 1993.

3. The following states and territories participated at the Meeting:

American Samoa, Australia, Cook Islands, Fiji, France, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, New Zealand, Northern Mariana Islands, Niue, Palau, Papua New Guinea, Solomon Islands, Tokelau, Tonga, Tuvalu, United States of America, Vanuatu, Western Samoa.

4. The South Pacific Commission (SPC) also attended the Meeting.

5. SPREP was originally established by a resolution of a Ministerial-level Meeting of the SPC in Rarotonga, Cook Islands, in 1982 as a separate entity hosted by the SPC. It was coordinated by a group consisting of the South Pacific Bureau for Economic Cooperation (now the Forum Secretariat), SPC, United Nations Environment Programme (UNEP) and the Economic and Social Commission for Asia and the Pacific (ESCAP). In September 1990 the Third SPREP IGM established three Working Groups to discuss general matters pertaining to finance, Action Plans, legal issues, the mandate of SPREP and its legal status, and to report to the Fourth IGM in July 1991. The Fourth IGM Ministerial-level Meeting, in July 1991, decided to establish SPREP as an independent regional organisation by treaty, with its headquarters in Apia, Western Samoa. The Fifth SPREP IGM met in Apia in September 1992 and accepted a draft produced by the Legal Subcommittee of an Agreement Establishing SPREP as an intergovernmental organisation as a basis for further discussion at a Plenipotentiary Meeting to be convened in 1993 by the Government of Western Samoa. This Meeting was held at Apia, Western Samoa, from 14 - 16 June 1993.

6. The Meeting was opened by the Honourable Tofilau Eti Alesana, Prime Minister of Western Samoa.

7. The Meeting unanimously appointed the Honourable Misa Telefoni (Western Samoa) as its Chairman.

8. The Meeting adopted the following agenda:

- (1) Official opening
- (2) Appointment of Chairman
- (3) Adoption of Agenda and Working Procedures
- (4) Deliberations on the draft Agreement Establishing the South Pacific Regional Environment Programme as an intergovernmental organisation
- (5) Adoption of an agreed text
- (6) Signature of the Final Act/Agreement
- (7) Adoption of Record of Meeting
- (8) Close.

9. The Meeting appointed the following Drafting Committee:

*Chairman:* Leiatua Dr. Kilifoti Eteuati

*Members:*

Australia	Anastasia Carayanides
Cook Islands	Dr James Gosselin
Fiji	Hon. M.V. Leweniqila
France	Alain Gouhier
Guam	Barry Israel
Kiribati	Tererei Abete
New Zealand	H.E. Mr Adrian Simcock
Niue	Bradley Punu
PNG	H.E. Mr Barney Rongap
Tonga	Sione Tongilava
Tuvalu	P. Feleti Teo
USA	George Taft
Western Samoa	Helen Aikman
Western Samoa	Kosimiti Latu
Western Samoa	Mose Sua
Western Samoa	Faamausili L. Tuimalealiifano

10. The main document which served as the basis for the deliberation of the Meeting was:

*The Draft Agreement Establishing the South Pacific Regional Environment Programme (PM/W.P2).*

11. In addition, the Meeting had before it a number of other documents that were made available by the SPREP Secretariat.

12. On the basis of its deliberations, the Meeting adopted the Agreement Establishing SPREP as an intergovernmental organisation on 16 June 1993. The Agreement is appended to this Final Act. It will be open for signature

from 16 June 1993 until 16 June 1994 and shall thereafter remain open for accession.

13. The Meeting recommended that certain privileges and immunities be addressed in a Headquarters Agreement between SPREP and the Government of Western Samoa. This recommendation is appended to this Final Act.

IN WITNESS WHEREOF the Plenipotentiaries have signed this Final Act.

Opened for signature at Apia this sixteenth day of June 1993.

For the Government of	.....
Australia:	this ..... day of ..... 1993
For the Government of the	.....
Cook Islands:	this ..... day of ..... 1993
For the Government of the	.....
Republic of Fiji:	this ..... day of ..... 1993
For the Government of the	.....
Republic of France:	this ..... day of ..... 1993
For the Government of the	.....
Republic of Kiribati:	this ..... day of ..... 1993
For the Government of the	.....
Republic of Marshall Islands:	this ..... day of ..... 1993
For the Government of the	.....
Republic of Nauru:	this ..... day of ..... 1993
For the Government of	.....
New Zealand:	this ..... day of ..... 1993
For the Government of	.....
Niue:	this ..... day of ..... 1993
For the Government of	.....
Papua New Guinea:	this ..... day of ..... 1993
For the Government of	.....
Solomon Islands:	this ..... day of ..... 1993
For the Government of the	.....
Kingdom of Tonga:	this ..... day of ..... 1993
For the Government of	.....
Tuvalu:	this ..... day of ..... 1993
For the Government of	.....
United States of America:	this ..... day of ..... 1993

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For the Government of the .....  
Republic of Vanuatu: this ..... day of ..... 1993

For the Government of .....  
Western Samoa: this ..... day of ..... 1993

Done in Apia this sixteenth day of June one thousand nine hundred and ninety three in the English and French languages, each language version being equally authentic. The original text will be deposited with the Government of Western Samoa.

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*Recommendations of the Meeting concerning  
certain Privileges and Immunities to be Addressed  
in a Headquarters Agreement between  
SPREP and the Government of Western Samoa*

1. SPREP Secretariat's premises, archives and property shall be inviolable.
2. The Staff shall be entitled to immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of their official duties.
3. All Staff who are not nationals of Western Samoa shall be accorded exemption from taxes in Western Samoa in respect of salaries received from the Secretariat. They shall also be accorded exemption from taxes in Western Samoa on furniture and effects imported at the time of first taking up post.
4. The Director shall be accorded the same exemption from taxes, duties and other levies as are accorded a diplomatic agent.